

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 371

To make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, JANUARY 30), 1995

Mr. HEFLIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Court of Federal  
5       Claims Administration Act of 1995”.

6       **SEC. 2. EXTENDED SERVICE.**

7       Section 172(a) of title 28, United States Code, is  
8       amended by adding at the end thereof the following new

1 sentence: “If a judge is not reappointed, such judge may  
2 continue in office until a successor is appointed and takes  
3 office.”.

4 **SEC. 3. SERVICE ON TERRITORIAL COURTS.**

5 Section 174 of title 28, United States Code, is  
6 amended by adding at the end thereof the following new  
7 subsection:

8 “(c) Upon request by or on behalf of a territorial  
9 court and with the concurrence of the chief judge of the  
10 Court of Federal Claims and the chief judge of the judicial  
11 circuit involved based upon a finding of need, judges of  
12 the Court of Federal Claims shall have authority to con-  
13 duct proceedings in the district courts of territories to the  
14 same extent as duly appointed judges of those courts.”.

15 **SEC. 4. RESIDENCE OF RETIRED JUDGES.**

16 Section 175 of title 28, United States Code, is  
17 amended by adding at the end thereof the following new  
18 subsection:

19 “(c) Retired judges of the Court of Federal Claims  
20 are not subject to restrictions as to residence. The place  
21 where a retired judge maintains the actual abode in which  
22 such judge customarily lives shall be deemed to be the  
23 judge’s official duty station for the purposes of section 456  
24 of this title.”.

1 **SEC. 5. JUDICIAL CONFERENCE PARTICIPATION.**

2 Section 331 of title 28, United States Code, is  
3 amended—

4 (1) by inserting in the first sentence of the first  
5 undesignated paragraph “the chief judge of the  
6 United States Court of Federal Claims,” after  
7 “Court of International Trade,”;

8 (2) by inserting in the first sentence of the  
9 third undesignated paragraph “the chief judge of the  
10 United States Court of Federal Claims,” after “the  
11 chief judge of the Court of International Trade,”;  
12 and

13 (3) by inserting in the first sentence of the  
14 third undesignated paragraph “or United States  
15 Court of Federal Claims,” after “any other judge of  
16 the Court of International Trade,”.

17 **SEC. 6. COURT OF FEDERAL CLAIMS JUDICIAL CON-**  
18 **FERENCE.**

19 (a) IN GENERAL.—Chapter 15 of title 28, United  
20 States Code, is amended by adding at the end thereof the  
21 following new section:

22 **“§ 336. Judicial Conference of the Court of Federal**  
23 **Claims**

24 “(a) The chief judge of the Court of Federal Claims  
25 is authorized to summon annually the judges of such court  
26 to a judicial conference, at a time and place that such chief

1 judge designates, for the purpose of considering the busi-  
 2 ness of such court and improvements in the administration  
 3 of justice in such court.

4 “(b) The Court of Federal Claims shall provide by  
 5 its rules or by general order for representation and active  
 6 participation at such conference by members of the bar.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
 8 The table of sections of chapter 15 is amended by adding  
 9 the following new item:

“336. Judicial Conference of the Court of Federal Claims.”.

10 **SEC. 7. RECALL OF JUDGES ON DISABILITY STATUS.**

11 Section 797(a) of title 28, United States Code, is  
 12 amended—

13 (1) by inserting “(1)” after “(a)”; and

14 (2) by adding at the end thereof the following  
 15 new paragraph:

16 “(2) Any judge of the Court of Federal Claims receiv-  
 17 ing an annuity pursuant to section 178(c) of this title (re-  
 18 lating to disability) who, in the estimation of the chief  
 19 judge, has recovered sufficiently to render judicial service,  
 20 shall be known and designated as a senior judge and may  
 21 perform duties as a judge when recalled pursuant to sub-  
 22 section (b) of this section.”.

1 **SEC. 8. JURISDICTION.**

2 (a) CLAIMS AGAINST THE UNITED STATES GEN-  
3 ERALLY.—Section 1491(a) of title 28, United States  
4 Code, is amended—

5 (1) in paragraph (1)—

6 (A) by inserting “for monetary relief”  
7 after “any claim against the United States”;  
8 and

9 (B) by striking out “or for liquidated or  
10 unliquidated damages”;

11 (2) in paragraph (2)—

12 (A) by inserting “(A) In any case within  
13 its jurisdiction, the Court of Federal Claims  
14 shall have the power to grant injunctive and de-  
15 claratory relief when appropriate.” after “(2)”;

16 (B) by striking out the last sentence; and

17 (C) by adding at the end thereof the fol-  
18 lowing new subparagraph:

19 “(B) The Court of Federal Claims shall have  
20 jurisdiction to render judgment upon any claim by  
21 or against, or dispute with, a contractor arising  
22 under section 10(a)(1) of the Contract Disputes Act  
23 of 1978 (41 U.S.C. 609(a)(1)), including a dispute  
24 concerning termination of a contract, rights in tan-  
25 gible or intangible property, compliance with cost ac-  
26 counting standards, and other nonmonetary disputes

1 on which a decision of the contracting officer has  
2 been issued under section 6 of that Act (41 U.S.C.  
3 605).’; and

4 (3) by adding at the end thereof the following  
5 new paragraphs:

6 “(4) In cases otherwise within its jurisdiction,  
7 the Court of Federal Claims shall also have ancillary  
8 jurisdiction, concurrent with the courts designated in  
9 section 1346(b) of this title, to render judgment  
10 upon any related tort claim authorized by section  
11 2674 of this title.

12 “(5) In cases within the jurisdiction of the  
13 Court of Federal Claims which constitute judicial re-  
14 view of agency action, the provisions of section 706  
15 of title 5 shall apply.”.

16 (b) PENDING CLAIMS.—(1) Section 1500 of title 28,  
17 United States Code, is repealed.

18 (2) The table of sections for chapter 91 of title 28,  
19 United States Code, is amended by striking out the item  
20 relating to section 1500.

21 **SEC. 9. SENIOR STATUS PROVISION.**

22 Section 178 of title 28, United States Code, is  
23 amended by adding at the end thereof the following new  
24 subsection:

1 “(m) For the purposes of applying section 3121(i)(5)  
 2 of the Internal Revenue Code of 1986 and section 209(h)  
 3 of the Social Security Act (42 U.S.C. 409(h)), the annuity  
 4 of a Court of Federal Claims judge on senior status after  
 5 age 65 shall be deemed to be an amount paid under sec-  
 6 tion 371(b) of this title for performing services under the  
 7 provisions of section 294 of this title.”.

8 **SEC. 10. MISCELLANEOUS PROVISION.**

9 (a) IN GENERAL.—Chapter 7 of title 28, United  
 10 States Code, is amended by adding after section 178 the  
 11 following new section:

12 **“§ 179. Court of Federal Claims judges as officers of**  
 13 **the United States**

14 “(a) For the purpose of applying the provisions of  
 15 title 5, a judge of the United States Court of Federal  
 16 Claims shall be deemed to be an ‘officer’ as defined under  
 17 section 2104(a) of title 5.

18 “(b) For the purpose of applying chapter 87 of title  
 19 5, a judge of the United States Court of Federal Claims  
 20 who is retired under section 178 of this title shall be  
 21 deemed to be a judge of the United States as defined  
 22 under section 8701(a)(5)(ii) of title 5.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 24 The table of sections for chapter 7 of title 28, United

- 1 States Code, is amended by adding at the end thereof the  
2 following new item:

“179. Court of Federal Claims judges as officers of the United States.”.

3 **SEC. 11. EFFECTIVE DATE.**

- 4 This Act and the amendments made by this Act shall  
5 take effect on the date of the enactment of this Act.

